REMARKS

By the present amendment, Claims 1, 9, 19, 29, 37 and 47 have been amended. Claims 1-15, 19-23, 29-43 and 47-51 are pending in the application, with Claims 1, 9, 19, 29, 37 and 47 being independent claims. Claims 1-6, 9-13, 29-34, 37-41 and 47-49 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Padovani (U.S. Patent No. 6,574,211 B2) in view of newly cited Piirainen (U.S. Patent No. 6,425,105 B1). Claims 7, 8, 14, 15, 22, 23, 35, 36, 42, 43, 50 and 51 remain objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Applicants appreciate the courtesies extended to Applicants' representative during the telephonic interviews held June 27, 2007. The present response summarizes the substance of the interviews.

During the interview, Applicants argued that the finality of the pending Office Action, e.g., the Final Office Action dated May 25, 2007, was premature and should be withdrawn because the Examiner introduced a new ground of rejection that was neither necessitated by amendments of the claims nor based on information submitted in an Information Disclosure Statement (IDS) filed during the period set forth in 37 C.F.R. § 1.97(c) with the fee set forth in 37 C.F.R. § 1.17(p). Amendments were not made to the claims in the Response Applicants filed March 1, 2007, and an IDS was not filed during the period between September 5, 2006, the mailing date of the previous Office Action, and May 25, 2007, the mailing date of the Final Office Action.

The Examiner agreed that the May 25, 2007 Office Action should be non-final and told Applicants to consider the Office Action as a non-final Office Action. On July 3, 2007, an Interview Summary was mailed stating that an agreement was reached to withdraw the finality of the Action. Applicants thank the Examiner for his consideration.

Claim 1 has been amended to recite, in part, a method of controlling transmission of a data packet from an access network (AN) in an access terminal (AT) of a mobile telecommunication system where the AN transmits the data packet in successive time slots, each slot having a plurality of data bits, and the AT receives the data packet from the AN, the method including comparing a received C/I of a forward pilot signal received from the AN with a predetermined first threshold; selectively checking for errors in the data packet in a received time slot according to whether the received C/I is greater than the first threshold; and transmitting a signal requesting termination of retransmission of the data packet to the AN if no errors are found in the data packet after said checking. Claims 9, 19, 29, 7 and 47 have been amended in a similar manner.

The present invention is directed to a method and apparatus for increasing a channel adaptation speed and as a result, increasing throughput in both a link adaptation and an Automatic Repeat reQuest (ARQ) mobile telecommunication system.

The Examiner concedes that Padovani fails to disclose a device for transmitting a signal requesting termination of retransmission of the data packet to the AN if no errors are found in the data packet. The Examiner states that Piirainen teaches automatic repeat request to request a retransmission of the corrupted data, and that Piirainen discloses, in col. 1, lines 28-38, that the receiver sends a NAK signal to request a retransmission of a coded signal block detected in error and the receiver sends an ACK signal to acknowledge a correct reception. The Examiner asserts that it would have been obvious to modify Padovani to include the alleged suggestions of Piirainen.

Padovani describes a method and apparatus for high rate packet data transmission. Data transmission on the forward link is time multiplexed and the base station transmits at the highest data rate supported by the forward link at each time slot to one mobile station. The data rate is determined by the largest C/I measurement of the forward link signals as measured at the mobile station. Piirainen describes a bidirectional ARQ apparatus and method.

As conceded by the Examiner, Padovani fails to disclose a device for transmitting a signal requesting termination of retransmission of the data packet to the AN if no errors are found in the data packet. The Examiner alleges that termination of retransmission is disclosed in Piirainen. However, Piirainen only discloses a general ARQ scheme in col. 1, lines 28-38, and fails to disclose a condition for termination of retransmission, such as comparing a C/I with a threshold, as in the present invention.

Piirainen fails to supplement the deficiencies of Padovani because Piirainen merely describes a conventional process of automatically requesting retransmission of corrupted data in col. 1, lines 28-38, and nowhere suggests transmitting a signal requesting termination of retransmission of the data packet to the AN if no errors are found in the data packet, as recited in the claims.

In contrast, the present invention uses received C/I when determining whether to decode data or determining whether to transmit a signal requesting retransmission/termination of retransmission before decoding data. The present invention also selectively checks for errors in the data packet according to whether the received C/I is greater than the first threshold, which is found nowhere in Padovani, Piirainen, or any combination thereof.

The Examiner has failed to establish a *prima facie* case of obviousness of the claims because any combination of Padovani and Piirainen fails to arrive at the recitations in the claims.

More particularly, Padovani, Piirainen, or any combination thereof, fails to teach or reasonably suggest selectively checking for errors in the data packet in a received time slot according to whether the received C/I is greater than the first threshold, as recited in Claims 1, 9 and 19. Padovani, Piirainen, or any combination thereof, also fails to teach or reasonably suggest a device for decoding a data packet in a received time slot and selectively checking for errors in the decoded data packet according to whether the received C/I is greater than the first threshold determining a data rate corresponding to the received power if the received power is less than or

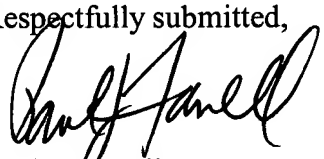
equal to the first threshold, and requesting retransmission of the data packet to the AN by transmitting the determined data rate to the AN, as recited in Claim 27, 37 and 49.

Accordingly, amended independent Claims 1, 9, 19, 29, 37 and 47 are allowable over Padovani, Piirainen, or any combination thereof.

While not conceding the patentability of the dependent claims, *per se*, Claims 2-8, 10-15, 20-23, 30-43 and 48-51 are also allowable for at least the above reasons.

Accordingly, all of the claims pending in the Application, namely, Claims 1-15, 19-23, 29-43 and 47-51, are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



Paul J. Farrell
Reg. No. 33,494
Attorney for Applicants

THE FARRELL LAW FIRM
333 Earle Ovington Blvd., Suite 701
Uniondale, New York 11553
Tel: (516) 228-3565
Fax: (516) 228-8476

PJF/TCS/dr